

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA**

EARL T. BARNETT,

Plaintiff,

v.

**Civil Action No. 1:05cv58
(Judge Keeley)**

**ALBERTO GONZALES,
Attorney General,**

Defendant.

**REPORT AND RECOMMENDATION
THAT REQUEST TO PROCEED IN FORMA PAUPERIS BE DENIED**

On March 29, 2005, the plaintiff, Earl T. Barnett, filed a pro se complaint against Alberto Gonzales wherein he states he was forced to resign from the Department of Corrections in Morgantown, West Virginia. The plaintiff filed an EEOC complaint regarding his discharge which was denied.

On April 5, 2005, the plaintiff filed an Application for Leave to Proceed In Forma Pauperis. According to the plaintiff's application, he is not employed, he last worked on January 22, 1997 at which time he earned \$1,200.00 per month. He states that he receives \$732.00 per month in social security benefits, \$2,324.00 per month in VA disability benefits and \$122.00 per month in teacher disability benefits. The plaintiff alleges that he has no money in his checking account, that his only assets are a 2003 Honda Accord, a 2000 Toyota Camry and his house. The plaintiff indicates that he has the following monthly expenses: \$617.00 monthly house loan payment; \$785.00 monthly car loan payment and \$800.00 per month household bills (utility bills, food, medicine and insurance).

According to the plaintiff's application, his monthly benefits total \$3,178.00. His monthly expenditures total \$2,202.00.

Based on the information the plaintiff provided to the Court, I recommend that his Application to Proceed In Forma Pauperis be **DENIED** and that the plaintiff be ordered to pay the \$250.00 filing fee.

Any party may file within ten (10) days after being served with a copy of this Recommendation, with the Clerk of the Court written objections identifying the portions of the Recommendation to which objections are made, and the basis for such objections. A copy of such objections should also be submitted to the Honorable Irene M. Keeley, United States District Judge. Failure to timely file objections to the Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Recommendation.¹

The Clerk of the Court is directed to mail a copy of this Report and Recommendation to all parties appearing herein.

DATED: ~~April~~ ^{MAY} 16, 2005


JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE

¹ 28 U.S.C. § 636(b)(1); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), *cert. denied*, 467 U.S. 1208 (1984); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); Thomas v. Arn, 474 U.S. 140 (1985).